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MEMORANDUM FOR: Legislative Counsel
SUBJECT : Foreign Employees Personnel Act of 1956

1. This has reference to your memorandum of December 9, 1955 in which you request the comments of this Office on subject proposed bill.

ILLEGIB 2. The purposes of this proposed bill from an overall Federal Government standpoint are desirable. The immediate result of the Government being able to obtain foreign personnel on a basis at least equal with local competition is advantageous for U.S. agencies. The Government would also benefit from the influence that being a good employer would have on local public opinion. This proposed legislation is very broad, which makes it difficult to assess its full impact on CIA as well as the entire Federal Government. It does not appear that the proposed bill gave consideration to the fact that there are foreign employees of the United States whose duties involve the security of the United States and preclude their identification as employees of the Federal Government.

3. In general, as related to this Agency, the proposed legislation, being enabling, does not have the specifics under which its provisions will be put into effect. The specific implementing regulations, which would follow its passage, would contain restrictions and clarifications. In the sectional analysis following Section I of the bill (in the first paragraph on page 3) it is stated, "However, as a practical matter it would be expected that U.S. agencies would agree to comply with local regulations in such matters as reporting ... and to the extent that might be deemed appropriate, by submitting certain records for inspection such as local employee payrolls, entirely on a voluntary basis." Even though it is stated that the submission of records, such as local employee payrolls would be entirely on a voluntary basis, it is considered that this would present a serious security and [redacted] to this Agency. It is noted that the information on the submission of records was not contained in the language of the proposed legislation but in the sectional analysis. It is believed that the inclusion of such information in the sectional analysis exemplifies the necessity for a knowledge of the implementing regulations before the impact of the proposed legislation on the Agency can be assessed to the degree necessary. By all means, CIA should have strong representation when implementing regulations under this bill are developed. In any event it is believed to be desirable for the proposed bill to contain a general provision which would allow implementing authorities to exempt agencies from the reporting requirements of this proposed bill for security or other reasons.

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4. The analysis following Section 3 of the bill indicates that implementing regulations will be developed by an issuing agency after consulting with the principal agencies involved and that there are many areas of personnel

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administration for which regulations would have to be developed at the departmental or local level. It is believed that this might result in a reduction of the authority under which CIA operates at the present time in the area of personnel administration. It is therefore considered desirable for this bill to contain a provision that any presently existing authority in Public Law 110, as amended, will not be reduced through the effect of any of the provisions of this bill.

5. It is noted, with respect to the analysis of Section 4(b), that the application of this legislation to "expatriates" and persons having dual citizenship would present difficult administrative situations. It is also believed that it could result in a lessening of the esteem in which U.S. citizenship is held. It is noted that there is no commonly accepted definition of the word "expatriate."

6. It is considered that the authorities contained in Sections 5, 6, 7, 8, 9, and 10 would facilitate United States agencies in negotiating personnel and labor agreements in foreign areas, and that they would be directly significant to this Agency in that agreements arrived at would represent U.S. policy and would provide a clear basis for the inclusion of such provisions in contracts. This proposed legislation is premised on the hypothesis that the total pay and emoluments extended to foreign employees will not exceed in aggregate those extended to regular U.S. citizen employees except in those instances required by special recruitment circumstances. It is believed the cumulative benefits to foreign employees when all of the following are taken into consideration, prevailing rate of pay, family allowances, bonuses, severance pay, holiday and overtime pay, displacement pay, lodging, meals, social security, unemployment, health and medical care, workmen's compensation and retirement will present a difficult averaging problem in view of the presence of so many variables.

7. We believe that Section 8(a) of the bill should not contain the following statement, "and in conformity with the Veterans Preference Act where applicable." The proposed bill establishes within itself standards for separations and suspensions. We see no valid reason for making the lengthy procedures required for separations under the Veterans Preference Act applicable to personnel hired under the authority of this proposed bill and would suggest a clause specifically excluding the applicability of that Act.

8. The Civil Service Retirement Act, as now phrased, limits coverage to aliens who are permanent appointees. It specifically excludes employees hired by contract.

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9. The extension of retirement coverage would be permissive as far as the legislation is concerned, but the rules and regulations of a central implementing body would probably be binding on CIA. If this occurs, the Agency might be confronted with difficult problems of administrative compliance. The principal problem in the applicability of this legislation is the security issue. This Agency has the capability for extending Civil Service retirement coverage to appointed U.S. citizen personnel without compromising security during employment but in all likelihood would encounter insurmountable difficulties in reporting data and meeting requirements of local governments involved in participation by non-U.S. citizen contract personnel in local social security plans. It is assumed that the conditions under which Civil Service retirement coverage could be permitted under the proposed bill would grant the Agency sufficient flexibility, but perhaps as an additional guarantee the Agency should seek "security" as a fourth possible reason for non-participation in local social security plans.

10. The provisions of Section 12 on Travel, Transportation and Storage are believed to be necessary and desirable in order for the Government to obtain and retain needed qualified personnel. Other governments and private enterprise provide similar travel, transportation and storage features and, in order for the U.S. Government to compete equally, the provisions of this proposed bill, many of which are being provided at present, are considered necessary.

11. The authorities provided in Section 13 are considered desirable. However, Section 13(b) extends medical care, including transportation to and from medical facilities, to local employees and their dependents who transfer at government expense to remote areas or to other foreign countries, but such authority does not exist for the dependents of U.S. citizen employees, although it is recognized as being desirable and is being sought for them through other proposed legislation.

12. We have no specific comment regarding Sections 14, 15, 16, 17, and 18.

13. With regard to foreign employees hired under overt conditions by

the [redacted] the security and cover issue is not involved inasmuch as these employees are represented to be employees of the U.S. Government. For the overt foreign employees of the Agency it is considered that this proposed bill, if enacted, would provide desirable and sought after features not presently available to foreign employees. It is believed that a knowledge of the implementing regulations affecting pay is necessary before an assessment can be made of the effect of the bill on the [redacted] foreign employees. This comment is generally applicable to the proposed bill as a whole.

14. In summary, it is considered that the proposed legislation from an overall governmental standpoint would achieve its objectives of enhancing the

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public relations of the United States as an employer abroad and at the same time would facilitate U.S. agencies in competing for qualified foreign personnel. However, the proposed legislation is very broad and unquestionably will be made more specific if and when it is favorably acted upon by either house of Congress. The security [redacted] considerations previously mentioned are of major importance to CIA and could present serious obstacles to our implementation. To depend upon the implementing rules and regulations after enactment of the bill might be too late for this Agency to achieve the flexibility necessary in this area. At the same time, to request an exemption would not suit the Agency's needs inasmuch as our affected personnel would be [redacted] of other non-exempted agencies and thus affected. Accordingly, it is believed that the closest scrutiny of the progress of the bill in the Congress is imperative and that this Office be kept advised of such progress. Thus the comments made herein are considered provisional and positive affirmation must be considered subject to change as the bill is changed.

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[Redacted Box]
Director of Personnel

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